

PRESS RELEASE

Colorado Department of Law
Attorney General Ken Salazar

FOR IMMEDIATE RELEASE

July 28, 2004

**CONSUMER ADVISORY: ATTORNEY GENERAL'S OFFICE WARNS
CONSUMERS ABOUT EXCESSIVE FEES ON CONSUMER CREDIT TRANSACTIONS**

DENVER — Attorney General Ken Salazar's Office today advised consumers to review credit account bills and statements carefully for fees and charges that appear to be unreasonable or excessive. The Uniform Consumer Credit Code ("UCCC") is the state law that limits fees and charges that can be added to consumer credit transactions. The Attorney General's Office, through the UCCC Administrator, licenses non-bank lenders subject to that law and takes legal action to enforce it.

Attorney General Salazar suggests consumers review credit statements each month for unusual charges. On most consumer credit transactions that are covered by Colorado's UCCC law, fees are limited and must be contracted for in the loan agreement. For example, a late payment fee of \$15 is permitted after a consumer is more than 10 days late in making a payment. On high-cost second and other junior lien mortgage loans with annual percentage rates of more than 12%, the late fee is limited to a maximum of 5% of the unpaid installment. Lenders subject to Colorado's credit laws may not charge consumers for alternative payment methods such as making a payment over the internet, by credit card, or by telephone if the lender chooses to or offers to accept payments by these methods. In addition, lenders may not charge fees for locating or appraising collateral before determining whether to repossess it.

It is important to remember, however, that the UCCC's fee limitations do not apply to first mortgage loans or loans originated by out-of-state national banks, including credit cards issued by them.

The Attorney General's office recently resolved two cases against lenders and mortgage servicers involving excessive fees that illustrate the need for consumers to review their statements and the limits Colorado law places on many credit lenders. In mid-July, the Attorney General's Office settled an administrative case against Fairbanks Capital Corp., now known as Select Portfolio Servicing, Inc., of Salt Lake City, Utah, arising from a 2003 compliance examination. Fairbanks typically services mortgage loans originated or owned by others. Fairbanks was cited for charging excessive or illegal fees for "speed pay" or "EZ pay" fees when a consumer made a payment online or by telephone, late payment, faxing documents, providing payoff quotes or payment histories, and for other services. Although Fairbanks did not admit any wrongdoing, it agreed to comply with the UCCC and paid a \$200,000 penalty to the Attorney General's Office for consumer and creditor education and examination costs.

Fairbanks was also the subject of consumer complaints nationwide about poor mortgage loan servicing on sub-prime loans including allegations that it posted timely payments late resulting in delinquency fees or additional interest, added casualty insurance to mortgage loans when consumers already had their own insurance in place, and collected improper delinquency and other fees. In May 2004, a federal district court in Massachusetts approved a settlement between Fairbanks, the Federal Trade Commission, and the U. S. Department of Housing and Urban Development to resolve those complaints. Under the terms of the national settlement, Fairbanks will pay \$40 million in restitution to consumers nationwide within the next few months.

Also earlier this month, the Attorney General's Office settled a case involving the servicing practices of Onyx Acceptance Corporation of Foothill Ranch, California. Onyx purchases retail installment contracts from automobile dealers and collects payments due under those contracts. The settlement requires Onyx to make refunds or account credits to Colorado customers for internet and telephone payment fees that exceeded \$3.50 (the average third-party cost for such payments), late fees that exceeded those permitted by the UCCC, and investigation fees for locating and verifying collateral or hand-delivering default notices. These refunds and credits may total approximately \$100,000 and involve over 3,500 consumers in Colorado. Onyx began refunding these amounts over the last few months and will complete the process by August 1, 2004. Onyx paid the Attorney General's Office a \$15,000 penalty in connection with the settlement and did not admit any wrongdoing.

The UCCC Administrator licenses over 1,850 finance companies, subprime second mortgage lenders, and payday lenders. Consumers with questions about allowable fees and charges on credit transactions may visit the Attorney General's website at www.ago.state.co.us/uccc/uccchome.htm or call (303) 866-4494.